

REMARKS

Claims 22-24 stand rejected under 35 USC 102(b) as being anticipated by, or in the alternative, under 35 USC 103(a) as being obvious over WO/65140 to Matsunaga et al. Claims 22-24 stand rejected under 35 USC 102(b) as being anticipated by, or in the alternative, under 35 USC 103(a) as being obvious over US2003/0152743 to Matsunaga et al. Note, as the Examiner indicates, US2003/0152743 is equivalent to WO/65140, accordingly, these two applications will be collectively referred to as "Matsunaga" herein.

Applicants claim a carpet including an aliphatic polyester multifilament crimped yarn. The yarn is produced by drawing a non-drawn yarn including a polylactic acid via two-step drawing process, in which the yarn is drawn to 1.01-3 times in the first step and to 1.01-3 times in the second step, with a drawing scale of 1.02-9 times in total, and crimping a multifilament fiber including the drawn yarn with a crimp-providing apparatus that utilizes heated air. The yarn also has the following characteristics: 1) a melting point of equal to or higher than 130°C, 2) a crimp elongation rate of 3-35% after being processed with boiling water, 3) a boiling water shrinkage of not higher than 10%, and 4) a breaking strength of 1-5 cN/decitex.

First, Matsunaga does not inherently disclose a yarn with the claimed characteristics. The Examiner has acknowledged that the claimed properties are not recited in Matsunaga, but maintains that these properties would be inherent to the yarns disclosed in Matsunaga. *See* Action dated, August 13, 2008, page 4. Applicants respectively disagree.

As shown in Mr. Mito's declaration submitted February 13, 2009, a yarn produced according to the processes disclosed in Matsunaga does not necessarily possess the claimed properties. In fact, Mr. Mito actually showed that a yarn produced according to the processes disclosed in Matsunaga does not have the claimed breaking strength. Since Matsunaga fails to disclose or suggest a yarn with the claimed properties, this rejection should be withdrawn.

Second, the Examiner is ignoring the processes limitations recited in the claims. As described in Mr. Mito's declaration submitted February 13, 2009, a yarn produced according to the process disclosed in Matsunaga will not have the same physical characteristics as a yarn produced according to the claimed two-step drawing processes. Specifically, the yarns produced according to Matsunaga's processes did not have the same breaking strength, manufacturing ability/spinning ability, and tufting ability, as a yarn produced using a one step drawing processes. This shows that the claimed process conditions affect the end product and should be given patentable weight.

The Examiner states that Example 12 of applicants specification shows that a yarn produced using a one-step drawing processes would have the same physical characteristics as a yarn produced with a two step drawing processes. However, Example 12 actually shows the opposite. Example 12 utilized a single step drawing processes instead of the two-step drawing processes recited in claim 1. See paragraph [0170]. Example 12 had inferior breaking ability, spinning ability, tufting ability, and luster and compression resistance than the yarn in Example 1. This further shows that the claimed process conditions affect the end product and should be given patentable weight.

Since Matsunaga does not describe a yarn that would inherently possess the claimed characteristics including the claimed breaking strength, and is produced using the claimed two-step drawing processes the rejections of claims 22-24 should be withdrawn.

In view of the above, each of the claims in this application is in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection

with the filing of this document to **Deposit Account No. 03-1952** referencing **Docket No. 360842009710**.

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Respectfully submitted,

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